

Honorable Ricardo S. Martinez

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON AT SEATTLE

ELEN IP LLC ,

Plaintiff,

v.

1. ARVINMERITOR, INC.;
2. BEALL CORPORATION;
3. BENDIX COMMERCIAL VEHICLE
SYSTEMS, LLC;
4. HALDEX BRAKE PRODUCTS
CORPORATION;
5. HALDEX GARPHYTTAN
CORPORATION;
6. KENWORTH TRUCK COMPANY;
7. MERITOR WABCO VEHICLE
CONTROL SYSTEMS;
8. NAVISTAR INTERNATIONAL
CORPORATION;
9. PACCAR INC.;
10. PERFORMANCE TRAILERS, INC.;
11. PETERBILT MOTORS COMPANY;
12. PREVOST CAR (US), INC.;
13. VOLVO TRUCKS NORTH AMERICA,
INC.;
14. WABCO HOLDINGS INC.; and
15. WALKER GROUP HOLDINGS LLC;

Defendants.

Case No. 2:11-cv-00140-RSM

**STIPULATION AND ORDER
RE: STAY OF GENERAL
DISCOVERY AND ENTRY OF
MODIFIED SCHEDULING ORDER**

I. STIPULATION

Further to the Joint Status Report (Dkt. No. 204) and the Court's Order indicating that it will consider phased discovery during the August 25, 2011 Scheduling Conference (Dkt. No. 209), the parties have conferred and agree that discovery should proceed in phases as set forth below to conserve the resources of the Court and all parties.

The parties propose the Court stay general discovery and enter the following modified scheduling order:

1. The parties shall file an agreed Protective Order on or before 7 days following the date this schedule is entered by the Court;
2. Plaintiff shall identify accused products on or before 7 days following the date this schedule is entered by the Court;
3. Defendants shall produce documents sufficient to show the functionality of the computations made by the accused systems on or before 30 days following the date this schedule is entered by the Court;
4. The parties shall agree to dates for depositions of Defendants' 30(b)(6) witnesses on or before 30 days following the date this schedule is entered by the Court;
 - a. The topics of the 30(b)(6) depositions contemplated herein shall be limited to the functionality of the accused systems and the computations made by the accused systems of defendants.
5. Plaintiff shall serve notices for 30(b)(6) depositions referenced in paragraph 4 above on or before 37 days following the date this schedule is entered by the Court;
6. The parties shall complete 30(b)(6) depositions referenced in paragraphs 4 and 5 on or before 50 days following the date this schedule is entered by the Court;
7. Plaintiff shall serve Infringement Contentions on or before 65 days following

the date this schedule is entered by the Court;

8. Defendants shall file motions for summary judgment (if any) on or before 80 days following the date this schedule is entered by the Court;

9. Plaintiff shall file responses to any motion for summary judgment filed under paragraph 8 above on or before 101 days following the date this schedule is entered by the Court;

10. Defendants shall serve invalidity contentions on or before 111 days following the date this schedule is entered by the Court;

11. Defendants shall file reply briefs (if any) on or before 111 days following the date this schedule is entered by the Court;

12. The stay of general discovery shall end following the expiration of 186 days from the date this schedule is entered by the Court.

13. If the above numbered cause is not resolved either through voluntary dismissal by plaintiff, stipulation of the parties, or by entry of summary judgment the Court; the parties shall submit a proposed schedule to the Court to prepare the case for claim construction and trial.

DATED this 19th day of August, 2011.

FERRING & DELUE LLP

By: s/Daniel D. DeLue
Daniel D. DeLue, WSBA #29357
600 Stewart Street, Suite 1115
Seattle, WA 98101
P: (206) 508-3804
F: (206) 508-3817
dan@ferringdelue.com
Of Attorneys for Plaintiff

STEVENS, LOVE, HILL & HOLT, PLLC

By: s/Gregory P. Love
Gregory P. Love, Pro Hac Vice
Todd Y. Brandt, Pro Hac Vice
Darrell G. Dotson, Pro Hac Vice
Scott E. Stevens, Pro Hac Vice
111 W. Tyler Street
P.O. Box 3427
Longview, TX 75606
P: (903) 753-6760

greg@stevenslove.com
todd@stevenslove.com
darrell@stevenslove.com
scott@stevenslove.com
Of Attorneys for Plaintiff

KRAMER LEVIN NAFTALIS &
FRANKEL LLP

By: per email authorization
Aaron M Frankel
1177 Avenue of the Americas
New York, NY 10036
212-715-9100
Email: afrankel@kramerlevin.com
Of Attorneys for the WABCO defendant
group

ORDER

Further to the Joint Status Report (Dkt. No. 204) and the Court's Order indicating that it will consider phased discovery during the August 25, 2011 Scheduling Conference (Dkt. No. 209), the parties have conferred and agree that discovery should proceed in phases as set forth below to conserve the resources of the Court and all parties.

The parties have proposed that the Court stay general discovery and enter the following modified scheduling order:

1. The parties shall file an agreed Protective Order on or before 7 days following the date this schedule is entered by the Court;
2. Plaintiff shall identify accused products on or before 7 days following the date this schedule is entered by the Court;
3. Defendants shall produce documents sufficient to show the functionality of the computations made by the accused systems on or before 30 days following the date this schedule is entered by the Court;
4. The parties shall agree to dates for depositions of Defendants' 30(b)(6)

witnesses on or before 30 days following the date this schedule is entered by the Court;

a. The topics of the 30(b)(6) depositions contemplated herein shall be limited to the functionality of the accused systems and the computations made by the accused systems of defendants.

5. Plaintiff shall serve notices for 30(b)(6) depositions referenced in paragraph 4 above on or before 37 days following the date this schedule is entered by the Court;

6. The parties shall complete 30(b)(6) depositions referenced in paragraphs 4 and 5 on or before 50 days following the date this schedule is entered by the Court;

7. Plaintiff shall serve Infringement Contentions on or before 65 days following the date this schedule is entered by the Court;

8. Defendants shall file motions for summary judgment (if any) on or before 80 days following the date this schedule is entered by the Court;

9. Plaintiff shall file responses to any motion for summary judgment filed under paragraph 8 above on or before 101 days following the date this schedule is entered by the Court;

10. Defendants shall serve invalidity contentions on or before 111 days following the date this schedule is entered by the Court;

11. Defendants shall file reply briefs (if any) on or before 111 days following the date this schedule is entered by the Court;

12. The stay of general discovery shall end following the expiration of 186 days from the date this schedule is entered by the Court.

13. If the above numbered cause is not resolved either through voluntary dismissal by plaintiff, stipulation of the parties, or by entry of summary judgment the

Court; the parties shall submit a proposed schedule to the Court to prepare the case for claim construction and trial.

IT IS ORDERED that general discovery is stayed between Plaintiff Elen IP and the WABCO defendant group.

IT IS FURTHER ORDERED that the scheduling order shall be modified as laid out above.

Dated this 23 day of August 2011.



RICARDO S. MARTINEZ
UNITED STATES DISTRICT JUDGE

Presented by:
FERRING & DELUE LLP

By: s/Daniel D. DeLue
Daniel D. DeLue, WSBA #29357
600 Stewart Street, Suite 1115
Seattle, WA 98101
P: (206) 508-3804
F: (206) 508-3817
dan@ferringdelue.com
Of Attorneys for Plaintiff

STEVENS, LOVE, HILL & HOLT, PLLC

By: s/Gregory P. Love
Gregory P. Love, Pro Hac Vice
Todd Y. Brandt, Pro Hac Vice
Darrell G. Dotson, Pro Hac Vice
Scott E. Stevens, Pro Hac Vice
111 W. Tyler Street
P.O. Box 3427
Longview, TX 75606
P: (903) 753-6760
greg@stevenslove.com
todd@stevenslove.com
darrell@stevenslove.com
scott@stevenslove.com
Of Attorneys for Plaintiff